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OFFICE OF PETITIONS

In re Application of: :
Eid et al. : LETTER REGARDING
Application No. 10/606623 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/25/2003 :
Atty Docket No. 11336-538 :
(P03114US) :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed February 5, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant discloses that the initial determination of patent term adjustment of six hundred fifty-five (655) days may extend the term of this patent by too many days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred twenty-six (626) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is six hundred fifty-five (655) days.

The Office initially determined a patent term adjustment of six hundred fifty-five (655) days based on an adjustment for PTO delay of seven hundred forty-seven (747) days pursuant to 37 C.F.R. § 1.702(a)(1), reduced by ninety-two (92) of applicant delay pursuant to 37 C.F.R. 1.704(b).

37 C.F.R. § 1.704(b) states:

With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant

shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.;

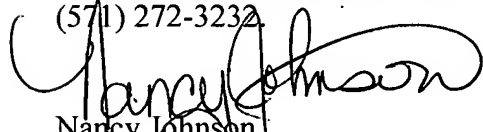
Applicant should have been assessed additional delay of twenty-nine (29) days pursuant to 37 C.F.R. § 1.704(b). Applicant filed a Request for Continued Examination ("RCE") and Amendment on October 31, 2007, in response to a final Office action mailed July 2, 2007. This is a period of applicant delay of twenty-nine (29) days (beginning on October 3, 2007 and ending on October 31, 2007).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred twenty-six (626) days** ((747 days of PTO delay, reduced by 121 (4+88+29)) days of applicant delay), subject to any terminal disclaimer.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The file is being forwarded to the Office of Data Management for processing into a patent. The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods, at (571) 272-3232.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

PALM INTRANET

Time: 18:13:30

PTA Calculations for Application: <u>10/606623</u>			
Application Filing Date:	06/25/2003	PTO Delay (PTO):	747
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	626
PTO Delay Adjustment:	-29		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
49	05/19/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
41	12/27/2007	MAIL NOTICE OF ALLOWANCE			
40	12/22/2007	ISSUE REVISION COMPLETED			
39	12/22/2007	DOCUMENT VERIFICATION			
38	12/22/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	12/10/2007	NOTICE OF ALLOWABILITY			
36	11/17/2007	DATE FORWARDED TO EXAMINER			
35	10/31/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	11/17/2007	DATE FORWARDED TO EXAMINER			
33	10/31/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
32	11/17/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	10/31/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	07/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
28	06/25/2007	FINAL REJECTION			
27	03/22/2007	DATE FORWARDED TO EXAMINER			
26	03/09/2007	RESPONSE AFTER NON-FINAL ACTION		88	23
25	03/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	03/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
23	09/11/2006	MAIL NON-FINAL REJECTION	747		-1
22	09/07/2006	NON-FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

21	03/10/2005	CONSIDERED			
20	07/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
17.7	03/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/10/2005	REFERENCE CAPTURE ON IDS			
15	03/29/2005	PRELIMINARY AMENDMENT			
14	02/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	07/12/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	03/25/2004	APPLICATION RETURN FROM OIPE			
10	03/25/2004	APPLICATION RETURN TO OIPE			
9	03/25/2004	APPLICATION DISPATCHED FROM OIPE			
8	03/25/2004	APPLICATION IS NOW COMPLETE			
7	02/09/2004	ADDITIONAL APPLICATION FILING FEES		4	5
6	02/09/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/05/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/28/2003	CASE CLASSIFIED BY OIPE			
3	08/28/2003	CLEARED BY OIPE CSR			
2	08/17/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/25/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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